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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/370,601	08/10/99	FUIMANO	K 34063/KMD/W1
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EXAMINER

RODRIGUEZ, C

ART UNIT

PAPER NUMBER

3763

DATE MAILED:

06/12/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/370,601

Applicant(s)

FUIMAONO, KRISTINE B.

Examiner

Cris L. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 24-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, species a)figure 1, claims 1-23 in Paper No. 8 is acknowledged.
2. Claims 24-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 6-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 are indefinite because it is not clear if the infusion tube is part of the ablation electrode (as shown in figure 1) or is an additional tube.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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6. Claims 1-8, 12, 15, 16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Panescu et al(6,056,745).

Panescu discloses an irrigation ablation catheter having a rigid body comprising an ablation electrode 16 at its distal end defining an inner cavity and having at least one irrigation opening 48, means for introducing fluid 44 into the inner cavity by means of body 22 (figure 15A), a handle, and an infusion tube extending through the rigid body.

7. Claims 1, 5-7, 12-15, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Racz et al(6,146,380).

Racz discloses an electrode cannula, (figures 1, 3A, 3B), having a rigid body 59 comprising an ablation electrode at its distal end 66 defining an inner cavity and having at least one irrigation opening 72, means for introducing fluid 44 into the inner cavity by means of body 22 (figure 15A), a handle 22, an infusion tube extending through the rigid body.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9-11, 19 –23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Racz et al and Panescu et al.

Racz and Panescu disclose the invention substantially as claimed as discussed above. However, Racz and Panescu fails to disclose the length and the diameters of the electrode and probe body as claimed. These parameters are a conclusion of design

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choice through test and experimentation, and would have been obvious to one of ordinary skill in the art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cox et al, Fung et al, Swartz et al, Nardella et al, Tu et al, Champeau, Webster, Maguire et al, Chia et al, Pomeranz, Sherman et al, Rieb et al, Brucker et al, McLaughlin et al, Schaer, and Shearon et al all disclose irrigation ablation devices analogous to that as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cris L. Rodriguez whose telephone number is (703) 308-2194. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Seidel can be reached on (703) 308-5115. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

CR 6/7/01
Cris L. Rodriguez
June 7, 2001

b
ANH TUAN T. NGUYEN
PRIMARY EXAMINER
5/8/01